

DETAILED ACTION

1. Claims 1-11 and 35-44 are pending. Claim 1 has been amended in this communication filed 02/14/10 entered as Response to Non-Final Action (Notice of Informal or Non-Responsive Amendment).
2. The Petition filed 11/03/08 is acknowledged.
3. The IDS filed 07/14/09 has been reviewed and entered.
4. The Petition Decision of 11/05/09 regarding the Abandonment 09/21/09 is acknowledged and has been entered.

Claim Objections

Claims 1, 7, 8, and 35-44 are objected to because of the following informalities: Claim 1 as amended in the second claim limitation in the body of the claim recites "identifying a digital description ... and capturing competition entry by ...;". This claim limitation would be better recited as "identifying a digital description ... and capturing a competition entry by ...;". Claim 1 recites "sensing device" and the claim limitations should add "pen" sensing device since "sensing device" is varied. Claims 7, 8, and 35-44 have a similar issue. Claim 35 in the preamble recites "A method". The preamble should recite "The method" since this is the second occurrence of "method". Claims 36-44 have a similar issue. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11 and 35-44 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 1-11 and 35-44. In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a §101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. *See Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

Remarks: Applicants' should re-insert "the computer system" in the body of claim 1 to overcome the 35 USC 101 Rejection.

Allowable Subject Matter

Claim 1 contains allowable subject matter.

The following is a statement of reasons for the indication of allowable subject matter: Capturing competition entry by determining locations in the digital description associated with the locations of the interacted tags represented in the received interaction data. The dependent claims would also be allowed for their dependency on a base claim containing allowable subject matter.

As allowable subject matter has been indicated, Applicants' reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Trammell James can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3694

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